

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:10-CV-659-MOC-DCK**

SYLVESTER C. JOHNSON,)	
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
WAL-MART STORES EAST, L.P.,)	
)	
Defendant.)	
)	

THIS MATTER IS BEFORE THE COURT on “Plaintiff’s Emergency Motion To Limit Discovery” (Document No. 72) filed October 19, 2012. This motion has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and immediate review is appropriate. Having carefully considered the motion and the record, the undersigned will deny the motion.

Plaintiff’s motion seeks an order “[c]ompelling the Defendant to limit its remaining deposition questioning of the Plaintiff to no more than one (1) additional hour.” (Document No. 72, p.1). The motion does not describe any foundation for construing the requested relief as an “emergency.” Moreover, Plaintiff’s motion acknowledges that counsel for Defendant represented “that she only had ‘30 more minutes’ of questioning.” (Document No. 72, p.2). The undersigned also notes that the pending motion fails to indicate that the requirement of consultation has been met pursuant to Local Rule 7.1 (B).

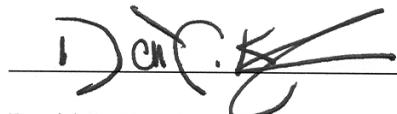
Defendant filed a response on October 23, 2012, which provides in pertinent part that it “agrees and consents to a one hour limit on its further questioning of Plaintiff . . . on direct examination, but does not agree to set a limit on its ability to re-direct Plaintiff following his counsel’s cross-examination, except that Defendant will agree not to address any issue on re-direct

that Plaintiff's counsel does not examine on cross." (Document No. 74, p.1).

Based on the foregoing, the undersigned will deny the pending motion. The parties are respectfully advised that failure to abide by the Local Rules, or the filing of frivolous motions, may lead to sanctions.

IT IS, THEREFORE, ORDERED that "Plaintiff's Emergency Motion To Limit Discovery" (Document No. 72) is **DENIED**.

Signed: October 23, 2012



David C. Keesler
United States Magistrate Judge 